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FISCAL IMPACT STATEMENT

LS 6137

BILL NUMBER: SB 1

NOTE PREPARED: Dec 15, 2015

BILL AMENDED:

SUBJECT: Administrative Law.

FIRST AUTHOR: Sen. Steele

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: X **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State

Summary of Legislation: This bill has the following provisions:

Administrative Court: It replaces administrative law judges (ALJ) and environmental law judges (ELJ) with an Administrative Court that conducts administrative hearings and other duties formerly conducted by ALJs and ELJs.

Judges: It provides that the Administrative Court consists of nine judges appointed by the Governor for terms of 5 years. The bill specifies that a person may serve not more than 10 years on the Administrative Court.

The bill requires the Governor to appoint one of the nine Administrative Court judges to serve as Chief Judge of the Court.

Process: The bill provides that, when an action is filed with the Administrative Court, the Chief Judge assigns a panel of three of the nine judges to hear the action.

Appeal: It specifies that a: (1) decision of the Administrative Court that is not a judgment requiring or following a judicial review may be initially appealed to the Administrative Court; and (2) judgment or other decision of the Administrative Court that requires a formal judicial review may be appealed only to the appropriate circuit court or superior court.

Judicial Review: It provides that formal judicial reviews of final agency actions or certain other administrative actions taken by the Administrative Court are conducted by a circuit court or superior court with appropriate jurisdiction.

The bill makes conforming amendments and repeals superseded provisions.

Effective Date: July 1, 2016.

Summary of NET State Impact: *Summary* - A new Administrative Court is expected to have a net increased cost to the state General Fund of between \$718,000 and \$1.4 M.

The Administrative Court is estimated to have total annual costs of between \$2.3 M and \$3.0 M for salaries, benefits, space rental, and clerk costs. Cost savings to state agencies are estimated at about \$1.0 M, although some of these cost savings will offset added costs for the Clerk of the Supreme Court who will be the clerk of the Administrative Court.

New filing fees will result in deposits to the state General Fund estimated to be about \$580,500 annually.

Explanation of State Expenditures: Agency administrative law process involving administrative law judges would be eliminated by the bill, and the responsibilities would be transferred to the Administrative Court.

Where there is an existing “due process system” that is not under the Administrative Orders and Procedures Act (AOPA), the agency’s current system will not transfer to the Administrative Court. The entity will retain its administrative process and costs will remain unchanged.

[There are 11 specific exemptions to the use of AOPA. Many exempt entities have other due process systems incorporated in their statute or administrative rules. In addition, AOPA does not apply to the formulation, issuance, or administrative review of determinations by the Division of Family Resources, the Department of Child Services, the Alcohol and Tobacco Commission, and the Office of Medicaid Policy and Planning concerning recipients and applicants of Medicaid. Examples of entities that are exempt from AOPA are the Department of Workforce Development, Indiana Utility Regulatory Commission, and the Indiana Board of Tax Review.]

The estimated costs and cost savings of the Administrative Court are shown below.

Cost or Savings	Amount	Description
Administrative Court Judge Salaries	\$984,150	Salary based on amount paid to magistrates, as specified in the bill.
Administrative Court Support Staff Salary and Benefits	1,021,500	Salary and benefits based on average salary of ALJ support staff and state budget benefits assumptions for 18 staff.
Rental Space	120,600	Department of Administration estimate based on current rental prices and estimated space requirements.
Clerk of the Supreme Court	208,100 - 884,900	Range is the salary expense for agency ALJ support staff costs and current Clerk's office staff salary and benefits costs.
Total Cost of Administrative Court	\$2,334,350 - \$3,011,150	
Net Cost Savings	(1,025,400)	Estimated ALJ salaries associated with ALJ activities.
Estimated Administrative Court Costs	\$1,308,950 - \$1,985,750	

Additional Information - Clerk of the Supreme Court: The Clerk of the Supreme Court will be the clerk of Administrative Court, receiving, tracking, filing, storing, and communicating court documents in addition to collecting fees. The Clerk's office currently uses electronic documents to handle an estimated 4,200 cases a year for the Supreme and Appellate Courts. The workload for the Clerk's office is estimated to increase by 3,870 cases for the Administrative Court, almost doubling the workload of the Clerk's office. Additionally, paper file storage may be required, which would add to administrative costs. Two measures of estimated cost were used to estimate the administrative cost to the Clerk's office: the salary and benefit costs of agency staff who support the ALJ function and the salary and benefit costs of the current Clerk's office staff.

Cost Savings - Some ALJs and ALJ support staff have other responsibilities within their agencies. Cost-saving estimates were made using a portion of an FTE. The partial FTE may be reassigned to other duties within the agency. To the extent that FTEs are not eliminated, the estimated cost savings may be overstated.

Explanation of State Revenues: Assuming the estimated 3,870 filings with agencies that are sent to an ALJ remains constant, the court could receive about \$580,500 annually from filing fees.

In most cases, filing for an administrative law process currently does not require a fee, while the Administrative Court will have a filing fee of \$150, potentially reducing the number of administrative process filings. There are no data available to estimate the reduction.

Explanation of Local Expenditures: The Administrative Court will have responsibility for administrative processes concerning qualifications of contractors. This is currently handled with the appointment of an ALJ by the local unit. The transfer of responsibility will have indeterminate fiscal impact.

Explanation of Local Revenues:

State Agencies Affected: Agencies with administrative law judge processes; Department of Administration; Clerk of the Supreme Court.

Local Agencies Affected: Local units.

Information Sources: Kevin Smith, Clerk of the Supreme Court; *Staffing Report*, November 2, 2015; LSA, *Administrative Law Survey* prepared for the Commission on the Courts, October 2012 and updates November and December 2015.

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